

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own)
Motion as to the propriety of the rates and)
charges set forth in M.D.T.E No. 17, filed)
with the Department on May 5, 2000 and) D.T.E. 98-57, Phase III
June 14, 2000 to become effective)
October 2, 2000 by New England)
Telephone and Telegraph Company)
d/b/a Bell Atlantic - Massachusetts)

COVAD COMMUNICATIONS COMPANY'S OPPOSITION TO
VERIZON MASSACHUSETTS' MOTION TO DEFER ISSUES

Covad Communications Company ("Covad") respectfully submits its opposition to the May 10, 2001 motion of Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon") to defer (1) loop conditioning for CSA-compliant loops and (2) line sharing collocation augmentation ("Motion") issues into D.T.E. 01-20. Verizon is requesting deferral of issues to a proceeding that is neither ready nor certain to hear them. In addition, deferring the loop conditioning issue will result in a waste of the comprehensive loop conditioning record associated with this proceeding and the related resources expended in developing it. Therefore, Verizon's request should be denied.

ARGUMENT

1. With respect to loop conditioning issues, the record in this proceeding is extensive and parties would be deprived of it if the investigation into loop conditioning of CSA-compliant loops were transferred into D.T.E 01-20. Although the Department summarily rejected Verizon's proposed loop conditioning charges, the record that precipitated its September 29, 2000 Phase III Order contains significant amounts of evidence that addressed all the facets of loop conditioning, some of which included work times and associated assumptions, number of loops conditioned at a given time, etc. The evidence introduced addressing Verizon's initial loop conditioning costs is applicable to conditioning CSA-compliant loops. Therefore, the consequences of transferring this issue to D.T.E. 01-20 is that parties would be unable to avail themselves of the extensive record developed in this proceeding. As a result, CLECs would have to incur the cost of and time involved developing a record in D.T.E. 01-20 which is similar to the record developed here. Such an outcome is entirely inappropriate since this proceeding is rich with record evidence needed to address such issues.

Untitled

Moreover, the parties in D.T.E. 01-20 are not fully prepared to address loop conditioning issues. Covad and others have moved to strike Verizon's loop conditioning testimony because the rate issues were fully and recently litigated in this proceeding. The parties, therefore, never expected that identical issues would be relitigated in D.T.E. 01-20 just a few months after orders in this proceeding were rendered. (1) The Hearing Officers' May 14, 2001 Memorandum in D.T.E. 01-20 stated that the Department anticipates ruling on the motion to strike this week. Obviously, if the motion to strike loop conditioning testimony in D.T.E. 01-20 is granted, consistency requires that the instant motion to transfer loop conditioning issues to that docket be denied.

2. Contrary to Verizon's implicit claim, collocation is not within the official scope of D.T.E. 01-20. In fact, Verizon's decision to file a direct case in D.T.E. 01-20 that supports its collocation rates is being contested by Covad and other parties to D.T.E. 1-20 because parties in D.T.E. 01-20 were not afforded prior notice that D.T.E. 01-20 would examine such rates. (2) These parties have moved to strike the collocation issues or move them to a later track. Therefore, Verizon's contention that the proper forum to address line sharing collocation augmentation issues is D.T.E. 01-20 is entirely presumptuous because its collocation case may be stricken from D.T.E. 01-20 or deferred.

CONCLUSION

For the foregoing reasons, the Department should deny Verizon's Motion.

Respectfully submitted,

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1.

1 See D.T.E. 01-20, CLEC Coalition's Motion to Strike Verizon Testimony and for Extension of Time (May 14, 2001).

2.

2 Id.

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